

FOURTH DAY
(Monday, January 17, 1977)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present: Adams, Aikin, Andujar, Braecklein, Brooks, Clower, Creighton, Doggett, Farabee, Hance, Harris, Jones of Harris, Jones of Taylor, Kothmann, Lombardino, Longoria, Mauzy, McKnight, Moore, Ogg, Parker, Patman, Santiesteban, Schwartz, Sherman, Snelson, Traeger, Truan, Williams.

Absent-Excused: Meier, Mengden.

A quorum was announced present.

The Reverend Dr. James Stoner, Central Christian Church, Austin, Texas, offered the invocation as follows:

Dear God, we are told that the onion was so valued in the ancient world that the Egyptians supposedly took an oath with their right hand resting on an onion. Today, we take an oath on Thy Word—the Bible. If we want someone to believe us we will say "I'd be willing to put my hand on the Bible."

Help us to use the Good Book as our Guidebook each day we are in session. May we live with the Bible in one hand and the newspaper in the other—always applying Eternal Truth to the contemporary, and judging the current news with the perspective of Biblical history.

We pray in the name of the One whose government is on our shoulders, Jesus Christ. Shalom and Amen.

On motion of Senator Aikin and by unanimous consent, the reading of the Journal of the proceedings of Thursday, January 13, 1977, was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

Senator Meier was granted leave of absence for today on account of important business on motion of Senator Adams.

Senator Mengden was granted leave of absence for today on account of important business on motion of Senator Brooks.

SENATE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions were introduced, read first time and referred to the Committee indicated:

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| S.B. 147 by Traeger | Economic Development |
| Relating to activities which are permitted without a plumbing license; amending Section 2 by adding Subsection (g), and amending Section 3, Plumbing License Law of 1947 (Article 6243-101, Vernon's Texas Civil Statutes); and declaring an emergency. | |

S.B. 148 by Farabee Jurisprudence
Relating to the Natural Death Act and a procedure for a person to provide in advance for the withdrawal or withholding of medical care when the person has a terminal condition.

S.B. 149 Farabee, Doggett Jurisprudence
Relating to parole revocation hearings; amending Section 22, Article 42.12, Code of Criminal Procedure, 1965, as amended.

S.B. 150 by Farabee, Doggett Jurisprudence
Relating to temporary furloughs for inmates of the Texas Department of Corrections; adding Section 36 to Article 42.12, Code of Criminal Procedure, 1965, as amended; adding Article 6184n to the Revised Civil Statutes of Texas, 1925.

S.B. 151 by Meier Jurisprudence
Relating to organized crime and the interception of communications in the investigation of organized crime; creating offenses and providing penalties; amending the Penal Code by amending Sections 3.02, 3.03, and 3.04, adding Chapter 49, and adding Title 11; adding Article 13.21 and Article 18.20 to the Code of Criminal Procedure, 1965, as amended.

S.B. 152 by Meier Jurisprudence
Relating to eligibility for probation, parole, and release to mandatory supervision, to conditional pardons, to prisoner classification, and to good conduct time; amending Article 42.12, Code of Criminal Procedure, 1965, as amended, by amending Sections 1, 2, 12, 13, 15, 20, 21, 22, 24, 26, 27, 28, 30, and 31, and by adding a new Section 3e; adding Article 6181-1 to Title 108, Revised Civil Statutes of Texas, 1925; amending Section 28, Chapter 212, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 6166z1, Vernon's Texas Civil Statutes); and repealing Article 48.05, Code of Criminal Procedure, 1965, Section 23, Chapter 212, Acts of the 40th Legislature, Regular Session, 1927 (Article 6166v, Vernon's Texas Civil Statutes), and Chapter 361, Acts of the 48th Legislature, Regular Session, 1943, as amended (Article 6184L, Vernon's Texas Civil Statutes).

S.B. 153 by Meier Jurisprudence
Relating to a court's instructions to the jury on the laws of parole and commutation of sentence for good behavior; and amending Subsection (b) of Section 3, Article 37.07, Code of Criminal Procedure, 1965, as amended.

S.B. 154 by Meier Human Resources
Relating to the penalties for obtaining welfare benefits or certain welfare information by fraudulent means and penalties for soliciting or charging attorney's fees for representing a client before the State Department of Public Welfare without a license to practice law; and amending Section 34 of The Public Welfare Act of 1941, as amended (Article 695c, Vernon's Texas Civil Statutes).

S.B. 155 by Meier Jurisprudence
Relating to control by the Court of Criminal Appeals of extensions of time for appeals of criminal cases; amending Section 3, Subsection (a) of Section 6, Sections 9 and 10, and adding Section 16 to Article 40.09, Code of Criminal Procedure, 1965, as amended.

S.B. 156 by Meier Jurisprudence

Relating to search warrants to search for and seize evidence of an offense; adding Subsection (c) to Article 18.01 and amending Article 18.02, Code of Criminal Procedure, 1965, as amended.

S.B. 157 by Meier

Jurisprudence

Relating to the admission in evidence of statements of an accused in a criminal proceeding; amending Articles 38.21 and 38.22, Code of Criminal Procedure, 1965, as amended.

S.B. 158 by Meier

Jurisprudence

Relating to bail pending appeal or disposition of a motion for new trial; amending Article 44.04, Code of Criminal Procedure, 1965.

S.B. 159 by Meier

Human Resources

Relating to penalties for fraud in medical assistance; amending Section 12, The Medical Assistance Act of 1967, as amended (Article 695j-1, Vernon's Texas Civil Statutes.)

S.B. 160 by Meier

Jurisprudence

Relating to civil and criminal sanctions against persons committing the offense of driving while intoxicated or under the influence of alcohol; adding Section 24B to Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended (Article 6687b, Vernon's Texas Civil Statutes); and adding Article 67011-2a to Title 116, Revised Civil Statutes of Texas, 1925.

S.B. 161 by Meier

Jurisprudence

Relating to posting of bond for traffic offenses by depositing a Texas driver's license with the arresting officer or court; adding Sections 153A and 153B to the Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 162 by Meier

Jurisprudence

Providing for penalties against and the revocation of driver's licenses of habitual traffic law violators; and declaring an emergency.

S.B. 163 by Meier

Jurisprudence

Relating to chemical tests for intoxication; amending Article 67011-5, Revised Civil Statutes of Texas, 1925, as amended, by amending Sections 1 and 2, amending Subsections (a), (b), (c), and (d) of Section 3, and adding Subsection (g) to Section 3.

S.B. 164 by Meier

Jurisprudence

Relating to arrests for traffic offenses; amending Sections 147 and 153, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes).

S.B. 165 by Meier

Jurisprudence

Relating to the suspension of driver's license, permit, or privilege of a minor who drives while intoxicated or while under the influence of alcohol.

S.B. 166 by Meier

Jurisprudence

Relating to reporting motor vehicle accidents; amending Section 43A and Subsection (a), Section 44, Uniform Act Regulating Traffic on Highways, as amended (Article 6701d, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 167 by Lombardino Education
Relating to a course of instruction in the free enterprise system in public schools; amending Subsection (a), Section 21.1031, Texas Education Code.

S.B. 168 by Clower Human Resources
Relating to the state's trust responsibility respecting Texas Indians; repealing Section 11, and amending Sections 2, 3, 5, 7, 8, 9, 10, 12, 13, 14, 15, 16, 18, 19, 20, and 21, Chapter 279, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 5421z, Vernon's Texas Civil Statutes).

S.B. 169 by Clower Natural Resources
Relating to the Railroad Commission of Texas and regulation by it of certain gas utilities; providing a penalty; amending Subsection (c) of Section 3, Subsections (b), (c), (d), (e), (f), and (g) of Section 6, Sections 8, 13, 14, 15, 16, 19, 22, 49, 50, Subsection (a) of Section 51, Sections 52, 53, 54, 56, 57, 58, 59, 60, 61, 62, 69, 70, and 73, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes); adding Sections 50A and 50B to the Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes); amending Article 6050, Revised Civil Statutes of Texas, 1925, as amended.

S.B. 170 by Clower Jurisprudence
Relating to civil remedies for intercepting, attempting to intercept, or causing, aiding, or permitting interception of certain communications as defined in the Act and for the use or divulgence of certain information obtained by interception; making certain exceptions; providing criminal penalties for certain acts.

S.B. 171 by Clower Intergovernmental Relations
Relating to the authority of a city to extend the application of certain ordinances to its area of extraterritorial jurisdiction; amending Section 4, Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes).

S.B. 172 by Clower Economic Development
Relating to requiring certain information relating to the payment of property taxes on mobile homes to be presented to holders of certificates and permits issued by the Railroad Commission of Texas before the moving or transporting of a mobile home; providing for records; providing for revocation of certificates of convenience and necessity and certain permits; amending Chapter 314, Acts of the 41st Legislature, Regular Session, 1929, as amended (Article 911b, Vernon's Texas Civil Statutes), by adding Section 21a.

S.B. 173 by Clower Intergovernmental Relations
Relating to county regulation of massage practitioners and establishments; providing penalties.

S.B. 174 by Clower Natural Resources
Relating to regular audits of utility companies under the jurisdiction of the Public Utility Commission of Texas or the Texas Railroad Commission; amending subsection (d), Section 27, Article 1446(c), Vernon's Texas Civil Statutes; and declaring an emergency.

S.B. 175 by Clower Natural Resources
Relating to the definition of "service" in subsection (s), Section 3, Article 1446(c), Vernon's Texas Civil Statutes; and declaring an emergency.

S.B. 176 by Clower Finance
Relating to the exempting from the sales and use tax wind-powered energy devices and certain insulation; amending Section (CC), Article 20.04, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended.

S.B. 177 by Clower State Affairs
Relating to the prohibition of certain acts by individuals, corporations, and labor organizations relating to political contributions, amending Subsection (C), Article 14.06, Chapter 14, Texas Election Code; and declaring an emergency.

S.B. 178 by Clower Natural Resources
Relating to reports by utility companies to the Public Utility Commission of Texas or the Texas Railroad Commission reflecting local property tax renditions of utility property; amending Sec. 27, Article 1446(c), Vernon's Texas Civil Statutes, by adding a new subsection (g) and declaring an emergency.

S.B. 179 by Clower State Affairs
Relating to the deposit of a portion of a state employee's monthly salary in a designated account; amending Article 6826, Revised Civil Statutes of Texas, 1925 (Article 6826, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 180 by Mengden Intergovernmental Relations
Relating to the compensation of deputy sheriffs; amending Subsections (a) and (b), Section 1, Chapter 332, Acts of the 63rd Legislature, Regular Session, 1973 (Article 3912f-7, Vernon's Texas Civil Statutes).

S.B. 181 by Mengden State Affairs
Relating to incentive pay for certain peace officers, amending Section 7, Chapter 546, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 4413 (29aa), Vernon's Texas Civil Statutes).

S.B. 182 by Ogg Human Resources
Relating to the requirements for an emergency admission, under a warrant or order of protective custody, of a mentally ill person to a hospital or other facility; amending Section 28 of the Texas Mental Health Code, as amended (Article 5547-28, Vernon's Texas Civil Statutes).

S.B. 183 by Ogg Jurisprudence
Relating to the calculation of time that a mental health patient may be detained without a court order; amending Section 27 of the Texas Mental Health Code, as amended (Article 5547-27, Vernon's Texas Civil Statutes).

S.B. 184 by Ogg Intergovernmental Relations
Relating to fees to be collected by county clerks and clerks of county courts for certain services and to specifications for certain legal papers to be filed and recorded, with additional fees for filing nonconforming legal papers; amending Article 3930, Revised Civil Statutes of Texas, 1925, as amended, and Articles 3930a-1 and 3930(b), Revised Civil Statutes of Texas, 1925; amending Title 61, Revised Civil Statutes of Texas, 1925, as amended, by adding Article 3930(c).

S.B. 185 by Sherman Natural Resources
Relating to the powers and duties of certain pipeline companies for the transportation of coal and to the regulation of these pipeline companies as common carriers; amending Articles 6018, 6019, 6023, and 6022, Revised Civil Statutes of Texas, 1925.

S.B. 186 by Sherman Jurisprudence
Relating to individuals, associations, and corporations doing business under an assumed name and a penalty for a violation; amending Articles 5924, 5924(a), 5926, and 5927b, Revised Civil Statutes of Texas, 1925; repealing Articles 5924.1, 5925, 5925a, 5927, and 5927a, Revised Civil Statutes of Texas, 1925.

S.B. 187 by Sherman State Affairs
Relating to the advertisement of bids for material to be used by a county; amending Article 1659, Revised Civil Statutes of Texas, 1925, as amended.

S.B. 188 by Williams Education
Amending Section 13.039 of the Texas Education Code relating to areas of specialization designated in teacher certificates, and declaring an emergency.

S.B. 189 by Williams Intergovernmental Relations
Relating to residency requirements for city employees.

S.B. 190 by Traeger Human Resources
Amending Chapter 21 of the Insurance Code, Chapter 491, Acts of the 52nd Legislature, Regular Session, 1951, as amended by adding a new Article, to be known as Article 21.52, relating to the right to select a doctor of podiatric medicine to perform the services which fall within the scope of license of such doctor that are scheduled in a health or accident insurance policy, agreement, contract, or certificate; repealing laws or parts of laws in conflict herewith; and declaring an emergency.

S.B. 191 by Traeger Human Resources
Amending Article 8309, Revised Civil Statutes of Texas, 1925, as amended, by adding a new Section thereto, to be known as Section 6, to include services of doctors of podiatric medicine within the coverage of the Workmen's compensation laws; repealing laws or parts of laws in conflict herewith; and declaring an emergency.

S.B. 192 by Ogg Jurisprudence
Relating to the creation, administration, powers, and duties of the Office of Court Administration of the Texas Judicial System; providing for the promulgation of rules by the Supreme Court.

S.B. 193 by Schwartz Finance
Relating to the exemption from inheritance taxes of community property interests in annuities and individual retirement accounts exempt from federal estate taxes under Sections 2039(d) and 2039(e), respectively, of the Internal Revenue Code of 1954.

S.B. 194 by Meier State Affairs
Relating to the administration of the state turnpike program; amending Sections 1 through 21, Chapter 410, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 6674v, Vernon's Texas Civil Statutes).

S.B. 195 by Meier State Affairs
Relating to the inclusion of judges of certain special statutory courts in the state judicial retirement system and credit for prior service as a judge of these courts; amending Chapter 99, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 6228b, Vernon's Texas Civil Statutes), by amending Sections 1 and 6A and adding Sections 2C and 5A.

S.B. 196 by Meier

Jurisprudence

Amending various Sections of the Penal Code (Acts 1973, 63rd Legislature, Regular Session, Chapter 399), as amended, as follows: amending Section 6.01, as amended, relating to the requirement of a voluntary act or omission; amending Section 8.06, relating to the defense of entrapment; amending Section 9.22, relating to necessity as justification; amending Section 12.45, relating to the admission of unadjudicated offenses; amending Chapter 12, as amended, by adding a new Section 12.46, relating to the use of prior convictions for enhancement purposes; amending Section 21.09, as amended, relating to the offense of rape of a child; amending Section 21.10, relating to the offense of sexual abuse of a child; amending Section 21.11, relating to the offense of indecency with a child; amending Section 22.03, relating to the offense of deadly assault on a peace officer and the punishment therefor; and declaring an emergency.

S.B. 197 by Meier

Jurisprudence

Amending various articles of the Code of Criminal Procedure, 1965, as follows: Amending Article 1.13, relating to waiver of trial by jury; amending Section 2 of Article 37.07, as amended, relating to the time of filing the defendant's motion for probation; amending Article 42.07, as amended, relating to reasons which can be shown on account of which sentence cannot be pronounced; amending Section 4 of Article 42.09, as amended, relating to transfer of prisoners to the department of corrections pending appeal; repealing Section 5 of Article 42.09, as amended, relating to transfer of prisoners to the department of corrections, and renumbering the remaining sections of said Article accordingly; amending subsection (a) of Section 6a of Article 42.12, as amended, relating to probation fees; amending Article 42.12, Section 8, as amended by adding a new subsection (c) relating to proof of an affirmative defense in a probation revocation hearing; and declaring an emergency.

S.B. 198 by Meier

Economic Development

Repealing the requirement that motorcyclists wear protective headgear; repealing Chapter 329, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6701c-3, Vernon's Texas Civil Statutes).

S.B. 199 by Meier

State Affairs

Relating to temporary speed limits; repealing Chapter 1, General Laws, Acts of the 63rd Legislature, 1st Called Session, 1973, as amended (Article 6701d, Vernon's Texas Civil Statutes).

S.B. 200 by Adams

Administration

Relating to immunity for witnesses before the legislature; amending Section 13 of the Legislative Reorganization Act of 1961, as amended (Article 5429f, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 201 by Santiesteban

Intergovernmental Relations

Relating to the designation and assignment of judges of county courts at law and the domestic relations court in El Paso County by the district courts of El Paso County and the District Court for the 34th Judicial District, to act as judge presiding for said district courts; relating to the qualifications, authority, powers, and duties of such judges of county courts at law and domestic relations court in El Paso County while acting as judge presiding in said district courts; relating to objection or appeal as to the validity of such designation or assignment; making other provisions relative to the district courts, domestic relations court, and county courts at law of El Paso County, and the District Court for the 34th Judicial District; providing for

additional compensation for county courts at law of El Paso County; providing a severability clause; and declaring an emergency.

S.B. 202 by Schwartz

Intergovernmental Relations

Amending Sections 3 and 7 of Chapter 341, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 1187f, Vernon's Texas Civil Statutes, as amended), authorizing and providing for the placing of the management and control of port facilities and the budgeting and authorization of expenditures from the incomes and revenues therefrom in the governing body of the City or in a board of trustees; enacting other provisions relating to the subject; and declaring an emergency.

S.B. 203 by Schwartz

Intergovernmental Relations

Authorizing the City of Galveston, Galveston County, Texas, or its Board of Trustees of the Galveston Wharves, to establish, operate and maintain a U. S. Foreign Trade Zone at Galveston, Galveston County, Texas, and sub-zones thereof; under the U. S. Foreign Trade Zones Act in accordance with regulations of the U. S. Foreign Trade Zones Board; authorizing the acceptance of such grant; and declaring an emergency.

S.B. 204 by Santiesteban

Jurisprudence

Relating to the possession of marijuana; providing penalties; amending Subsection (b) of and adding Subsection (g) to Section 4.05, Texas Controlled Substances Act (Article 4476-15, Vernon's Texas Civil Statutes); and declaring an emergency.

S.B. 205 by Longoria

Economic Development

Relating to secured transactions; amending Subsection (d) of Section 9.402, Subsections (a) and (d) of Section 9.403, Subsection (c) of Section 9.504 and Section 11.108, Business & Commerce Code; as amended, and declaring an emergency.

S.B. 206 by Adams

Intergovernmental Relations

Relating to the election of the board of supervisors of the Panola County Fresh Water Supply District No. 1.

S.B. 207 by Andujar

Jurisprudence

Relating to the immunity of witnesses in the process of school book selection from civil liability when the testimony followed the statutory and administrative guidelines of the State Board of Education; providing a remedy for witnesses who are sued.

S.B. 208 by Andujar

Jurisprudence

Relating to the recovery of attorneys' fees in certain suits for title and possession of land.

S.B. 209 by Andujar

Jurisprudence

Relating to the persons whose consent is required to conduct an autopsy on the body of an unmarried decedent; amending Section 1, Article 49.05, Code of Criminal Procedure, 1965; and declaring an emergency.

S.B. 210 by Andujar

Jurisprudence

Relating to the possession of antique gambling devices; amending Section 47.06, Penal Code.

S.B. 211 by Aikin Finance
Appropriating money for the support of the Judicial, Executive and Legislative Branches of State Government.

S.J.R. 15 by McKnight, Moore, Schwartz State Affairs
Proposing an amendment to Article XVI, Section 17, of the Texas Constitution, to limit the duration of the holdover authority of gubernatorial appointees to public offices.

S.J.R. 16 by Meier Jurisprudence
Proposing a constitutional amendment relating to denial of bail to a person accused of a felony in certain circumstances.

S.J.R. 17 by Meier State Affairs
Proposing an amendment to Article V of the Texas Constitution by adding Section 1-b to authorize the Legislature to provide for retirement and compensation paid by the state for judges of certain statutory courts, for their reassignment to active duty when needed, and for automatic retirement at a certain age.

S.J.R. 18 by Meier Jurisprudence
Proposing an amendment to the Texas Constitution to provide for a Supreme Court of Criminal Appeals with nine justices and to permit the court to sit in panels of three justices.

S.J.R. 19 by Patman, Hance Natural Resources
Proposing a constitutional amendment relating to the formation of associations by producers of agricultural products.

S.J.R. 20 by Jones of Harris Finance
Proposing an amendment to Article VII of the Texas Constitution by adding Section 17a to eliminate the state ad valorem tax.

S.C.R. 11 by Mengden Finance
Memorializing Congress to prohibit deficit spending.

S.C.R. 12 by Ogg Administration
Memorial resolution for Miss Ima Hogg.

S.R. 43 by Ogg Administration
Memorial resolution for Gus S. Wortham.

MESSAGE FROM THE GOVERNOR

The following Messages from the Governor were received and referred to the Committee on State Affairs, Sub-Committee on Nominations:

Austin, Texas
January 17, 1977

TO THE SENATE OF THE SIXTY-FIFTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

To be INTERSTATE COMPACT COMMISSIONER FOR THE RED RIVER: Mr. Fred Parkey of Iowa Park, Wichita County is replacing The Honorable Otha Dent of Austin, Travis County who is deceased.

Austin, Texas
January 13, 1977

**TO THE SENATE OF THE SIXTY-FIFTH LEGISLATURE, REGULAR
SESSION**

I ask the advice, consent, and confirmation of the Senate with respect to the following appointments:

To be CRIMINAL DISTRICT ATTORNEY for McLennan County until the next general election and until his successor shall be duly elected and qualified: The Honorable Felipe Reyna of Waco, McLennan County is replacing Mr. Martin Eichelberger of Waco, McLennan County who is deceased.

Respectfully submitted,
DOLPH BRISCOE
Governor of Texas

CO-AUTHORS OF SENATE BILL 74

On motion of Senators Aikin and Snelson and by unanimous consent, Senators Parker, Williams and Hance will be shown as Co-authors of **S.B. 74**.

CO-AUTHORS OF SENATE BILL 60

On motion of Senator Brooks and by unanimous consent, Senators Clower and Williams will be shown as Co-authors of **S.B. 60**.

MEMORIAL RESOLUTIONS

S.R. 47 - By Brooks, Jones of Harris: Memorial resolution for George Washington Christy.

S.R. 48 - By Adams: Memorial resolution for Wilbur Pate.

CONGRATULATORY RESOLUTIONS

S.R. 44 - By McKnight: Extending congratulations to Ralph Morgan.

S.R. 46 - By Creighton: Extending congratulations to Arlene Moran.

S.R. 49 - By Adams: Extending congratulations to students and sponsor involved in Loblolly magazine project.

ADJOURNMENT

On motion of Senator Aikin the Senate at 10:55 o'clock a.m. adjourned until 10:30 o'clock a.m. tomorrow.